

Testimony of Sage Carson  
Democratic Women's Caucus  
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My name is Sage Carson and I am the Manager of Know Your IX, a national survivor-and youth-led campaign of Advocates for Youth that organizes against gender violence in schools and beyond. I am grateful for the opportunity to testify before the Democratic Women's Caucus, and would like to especially thank Congresswoman Speier for her invitation to join this round-table today.

Know Your IX started in 2013 as a group of student survivors on their laptops working to spread the word about Title IX to ensure their civil right—to pursue an education free from violence—wasn't just a promise on paper but a reality for them and for their classmates. In less than a decade, Know Your IX has grown into a national campaign working with thousands of students across the country to build a world where students can learn free from the threat of violence. Sadly, under Betsy DeVos' tenure as Secretary of Education, this world has moved further out of reach.

While I know today's roundtable focuses on the final Title IX rule, I believe it is essential to recognize that the harm DeVos has done to student survivors began with the rescission of prior guidance on Title IX and the issuance of her interim guidance, which opened the doors to allow schools to go back to a time when they systematically swept sexual violence under the rug with impunity.

I began college in 2013, and started organizing with Know Your IX after three of my friends dropped out of school following their sexual assaults, two because of our school's failure to respond to their complaints, and the other because our school punished her following her Title IX complaint. Thanks to student organizers on campus, and the work of organizations like Know Your IX, the Department of Education's Office for Civil Rights conducted an investigation into our school's mishandling of sexual violence and harassment—this investigation led to significant changes in my school's policy, procedures, and culture around sexual violence. After I was raped by a classmate in my small academic program, I thought my only option was to drop out of school like my friends had. Otherwise, I would be forced to see my rapist every time I went to class, and as a low-income student, my ability to stay in school was directly tied to a scholarship from the same department. My grades had dropped so significantly in the wake of my rape that I was ineligible to transfer to another school. But unlike my friends, when I reported to my school, I received the resources and accommodations I needed to continue my education. This was in large part because of the OCR investigation prompted by the work of student organizers. And while my school's response was far from perfect, it was a significant step closer to actualizing Title IX.

I took leadership of Know Your IX following my graduation, and shortly before DeVos rescinded the 2011 Dear Colleague Letter. Since then, I have heard hundreds of stories from survivors across the country that resemble those of my friends who were pushed out of school following

their abuse. I spoke recently with a survivor who was raped during the first week of her sophomore year and reported it shortly after, her investigation with the school is still on-going after three years. And though she should have graduated last month, the effects of the assault and the school's failure to resolve her complaint have derailed her graduation. This is the direct effect of DeVos removing a clear prompt timeline in Title IX cases.

DeVos' Title IX rule will further cement her anti-survivor legacy, but more importantly, it will make it nearly impossible for students to realize their right to learn free from violence.

The Department of Education should be doing everything in its power to combat sexual harassment and assault that more than 1 in 5 women, transgender, and gender non-conforming students will experience.<sup>1</sup> Instead, DeVos' rule severely reduces the number of student survivors who will have access to rights under Title IX. The rule *requires* schools to dismiss complaints of violence that happen outside of a university program or activity, on study abroad, or that the Department thinks isn't "bad enough." By the Department's own estimate, four-year institutions will now investigate 32 percent fewer reports of sexual assault and harassment<sup>2</sup> — and that's assuming that even more students aren't deterred from reporting altogether. Currently, just 5% of student sexual assaults are reported.<sup>3</sup>

The rule allows —and, in some ways, requires —institutions to subject reports of sexual harassment and assault to a different and more skeptical review than reports of harassment based on race, national origin, or disability.<sup>4</sup> This double standard is an ugly echo of the time when reports of rape were legally discarded unless they met demanding standards that no other

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<sup>1</sup> Madison Pauly. (2019). "The Largest–Ever Survey of Campus Sexual Assault Shows How Outrageously Common It Is." *Mother Jones*, Accessed June 18th, 2020. <https://www.motherjones.com/crime-justice/2019/10/campus-sexual-assault-survey>.

<sup>2</sup> Rule at 1985; Proposed Rule, 83 Fed. Reg. at 61,487

<sup>3</sup> Ann Cahill, Comment on Proposed Rule (ED-2018-OCR-0064-10709) (citing Christine H. Lindquist et al., *The Context and Consequences of Sexual Assault Among Undergraduate Women at Historically Black Colleges and Universities (HBCUS)*, 28 J. Interpersonal Violence 2437 (2013)); Nat'l Ass'n of Graduate and Prof'l Students, Comment on Proposed Rule (ED-2018-OCR-0064-30381); Am. Soc'y of Criminology, Div. on Women & Crime, Comment on Proposed Rule (ED-2018-OCR-0064-6883) (citing Bonnie S. Fisher et al., *Reporting Sexual Victimization to the Police and Others: Results From a National-Level Study of College Women*, 30 Crim. Just. & Behav. 6 (2003)); Northeastern Sexual Assault Response Coalition, Comment on Proposed Rule (ED-2018-OCR-0064-104491).

<sup>4</sup> Title VI of the Civil Rights Act of 1964 ("Title VI"); Section 504 of the Rehabilitation Act of 1973 ("Section 504"); Title II of the Americans with Disabilities Act of 1990 ("Title II"). Compare Title VI, 42 U.S.C. § 2000d ("No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."); with Title IX, 20 U.S.C. § 1681 ("No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity."); and Section 504, 29 U.S.C. § 794(a) ("No otherwise qualified individual with a disability . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."); and Title II, 42 U.S.C. § 12132 ("[N]o qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.").

complaints were required to meet. Even more, this double standard allows schools to do exactly what Title IX prohibits — discriminate on the basis of sex.

Further, the final rule curtails the restorative nature of Title IX — focused on educational access — and instead forces survivors to bear the burden of finding ways to stay in school in the wake of violence. Take for example, the story of three high school survivors, who were assaulted by the same boy in their class. They each separately reported to the school because it was impossible for them to learn in the same classroom as their rapist. Instead of making it safe for these girls to stay in their original class, the school moved all three of them to a night class off-site at a community college. To make matters worse, when one student tried to speak publicly about her assault, she was punished by the school. A few years ago, stories like these were becoming an exception to the rule. DeVos' changes to Title IX would allow — and in some cases even mandate — more school responses like this.

The rule limits sexual harassment to which a school must respond to conduct that occurred in its “education program or activity,” meaning that a school “must dismiss” many Title IX reports of assault that happen off campus without taking into account the on-campus effects on its students—even the Department noted that over 40% of sexual assault at the university level occur off campus. Further, it is estimated that only 8% of all sexual assaults involving middle school, high school, and college students occur on school property.<sup>5</sup> And despite 38% of women undergraduates experienced sexual harassment and assault while on study abroad,<sup>6</sup> the Department's rule will require schools to dismiss their reports under Title IX.

We filed a lawsuit shortly following the release of the rule. And while I am hopeful that this suit, and our additionally organizing work with survivors, will stop some of the harm DeVos has done to Title IX and student survivors, this Department of Education has shown for years that it does not care about survivors or our right to education. Further, instead of working with survivor advocates to stop the high rates of sexual violence in schools, DeVos has used her time as Secretary of Education to force survivors to fight for the most basic protections. In doing so, DeVos turned her back on the survivors I work with every day that are struggling just to keep their heads above water. DeVos and the Trump administration should be ashamed of themselves.

Thank you all for allowing me to speak to you today about what student survivors are experiencing —and will continue to experience if DeVos' rule goes into effect. We owe it to them to demand better of our administration, our elected officials, our schools, and our communities. And I hope each of you will join me, and my fellow organizers at Know Your IX, in the fight to create a world where the cost of education doesn't include sexual violence. Thank you.

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<sup>5</sup> End Rape on Campus, Comment on Proposed Rule (ED-2018-OCR-0064-104527); Equal Rights Advocates, Comment on Proposed Rule (ED-2018-OCR-0064-104091).

<sup>6</sup> Am. Soc'y of Criminology, Div. of Women & Crime, Comment on Proposed Rule (ED-2018-OCR0064-6883).